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SUBJECT: ACTION REQUEST: 64TH UN GENERAL ASSEMBLY, THIRD COMMITTEE, 2009 - PRIORITIES

¶1. SUMMARY: The United States has a full agenda for the UN General Assembly (UNGA) Third Committee session (covering human rights-related issues) and will need the support of capitals to win key votes on resolutions on the human rights situations in Iran, Burma, and DPRK, as well as certain thematic human rights issues (see paragraph 5). Voting on the resolutions will take place periodically, as the draft texts are finalized, starting in the second half of October, through mid-late November. Department anticipates that many important actions (such as Canada's annual resolution on human rights in Iran) will require high-level diplomatic engagement and are likely to pass by only slim margins. The United States will also introduce its traditional biennial resolution on free elections. In our approach to Third Committee this year, we will seek to improve UN voting coincidence between the United States and our bilateral partners, and to chip away at the historically strong tendency for regional groups to vote on resolutions based on bloc positions, often irrespective of a resolution's merits or individual country's interests.

END SUMMARY.

¶2. ACTION REQUEST: This cable requests Posts to demarche at the highest appropriate level to solicit cooperation and support for U.S. priorities listed in paragraphs 7-11 and to seek host government insights on other resolutions that may be offered in the fall session of the UNGA Third Committee. Posts may draw on background and talking points provided in paragraphs 3-11.

-- Note Additional Talking Points for Specific Regional Groups on key issues:

- a) Latin American and Caribbean countries: Specific talking points on the rights of the child resolution are set out in paragraph 8.
- b) Organization of the Islamic Conference (OIC) Member States: Specific talking points on the U.S. approach to the OIC's "defamation of religions" resolution are set out in paragraph 10.
- c) All Non-OIC-Member countries: Separate talking points on the OIC's "defamation of religions" resolution are set out in paragraph 11.

Posts should not deliver this demarche if they determine it would be counterproductive to do so, and in such cases, are requested to inform Department (IO-RHS and DRL-MLGA) of their rationale. If Posts think it would be useful, they are encouraged to deliver demarche jointly with the Canadians and/or the Swedes (EU Presidency).

BACKGROUND - U.S. HUMAN RIGHTS PRIORITIES FOR UNGA THIRD COMMITTEE

NO-ACTION MOTIONS

¶13. Some UN member states have repeatedly used so-called "no-action motions" in the Third Committee to halt debate and voting on country-specific human rights resolutions. The U.S. and many other countries strongly oppose use of such motions which often prevent discussion of and action on the most egregious violations of human rights and undermine the effectiveness and reputation of the General Assembly. We are particularly troubled by Iran's continuing efforts to use this to prevent discussion about abuses of its own citizens. This is especially worrisome given the abuses that have occurred in the aftermath of Iran's deeply flawed elections. The passage of no-action motions would deal a blow to the credibility of the Third Committee, as well as the United Nations as a whole, and we request posts urge host governments to oppose any proposed no action motions that may arise (see paragraph 7).

COUNTRY-SPECIFIC RESOLUTIONS

¶14. Each year, the UNGA Third Committee draws attention through country-specific resolutions to a handful of countries that systematically violate their citizen's human rights. Some countries will argue that there is no need for the Third Committee to address country-specific initiatives because they are covered by the UN Human Rights Council (HRC) in Geneva. The United States disagrees; the Third Committee's purview over country-specific human rights situations is critical as it is the only venue specifically charged with addressing human rights where there is universal membership and all 192 UN Member States have standing to engage, vote and be held to account on their votes on human rights issues. Furthermore, the Third Committee's work more directly influences the work of the General Assembly and other committees, and the work of the NY-based Secretariat.

¶15. In 2008, resolutions on the human rights situation in Iran, Burma, and the Democratic People's Republic of Korea (DPRK) were successfully passed in the UNGA Third Committee and subsequently in the plenary session of the General Assembly, though only after no-action motions on Iran and Burma were defeated. In 2009, resolutions will again be presented related to Iran, Burma and the DPRK:

-- Iran: The U.S. will strongly support Canada's annual resolution on the situation of human rights in Iran. The Iranian government continues to commit serious human rights violations including summary executions, torture, and arbitrary detention. Judicially sanctioned death by stoning has increased in 2009. The government of Iran severely limits freedoms of expression, religion and assembly, and after the June 12 elections shut down scores of news outlets and arrested many journalists. Extrajudicial killings, torture, cruel and degrading treatment have been widely reported.

-- Burma: The U.S. will strongly support the EU's annual resolution on human rights in Burma. We are deeply concerned with the situation in Burma, in particular the conviction of Aung San Suu Kyi on charges of violating the terms of her house arrest and the regime's continued imprisonment of more than 2,000 prisoners of conscience, including many imprisoned after peaceful pro-democracy protests in August and September 2007. We are also concerned about the particularly severe ongoing persecution of many ethnic and religious minority groups, including the Muslim Rohingya who are denied citizenship. Our fundamental goals of supporting a peaceful, unified Burma that respects the rights of its citizens have not changed. Our support for this resolution is consistent with the new U.S.-Burma policy, including our senior-level engagement with the Burmese leadership. We have and will continue to raise these same issues during our talks with the regime.

-- DPRK: The U.S. will strongly support the EU's annual resolution on DPRK. The human rights situation in the Democratic People's Republic of Korea remains poor and the regime continues to commit serious abuses. The regime controls almost all aspects of citizens' lives, denying freedom of expression, assembly, religion and association, and restricts freedom of movement and worker rights. The country's continued failure to permit visits by the UN Special Rapporteur and its unwillingness to engage on human rights issues with the international community cannot be ignored. The UN must address the situation in the DPRK to reinforce that this is a matter of international concern.

16. THEMATIC RESOLUTIONS

Note: Copies of resolutions from previous years can be found at the UN General Assembly website at www.un.org/ga/sessions/previous.shtml

-- Defamation of Religions: This resolution, sponsored by the Organization of the Islamic Conference (OIC) presents real difficulties for the U.S. It calls for prohibitions/punishment on offensive speech, including speech that "defames" religions, and singles out Islam as the main religion of concern in this respect. We will aim to either defer this resolution or defeat it at this UNGA.

OIC countries argue that governments should restrict speech that is offensive to individuals on the basis of their religion or belief. Rather than seeking to address negative stereotyping of religion through banning offensive speech, the U.S. believes that the most effective role for government in combating negative stereotyping of religion is not to ban offensive speech, but rather to: (i) proactively reach out to minority groups, in particular, to address discrimination and intolerance, (ii) develop appropriate legal regimes to adjudicate discriminatory acts and hate crimes, and (iii) allow diversity to flourish through robust freedom of religion and expression protections.

At this UNGA, we hope to build on the success of the joint U.S./Egypt freedom of expression resolution at the Human Rights Council (see joint U.S./Egypt press release at <http://geneva.usmission.gov/2009/10/06/expressions-resolution>). We will aim to (1) reach out to OIC countries to see if we can develop an alternative means to address the underlying concept of the Defamation of Religions resolution - we will ask OIC members to consider deferral of the defamation of religions resolution along these lines and (2) educate moderates about the dangers of the Defamation of Religions concept.

However, if the Defamation of Religions resolution is tabled, we will urge governments to vote against it, and seek like-minded governments' views on how best to mount a successful campaign against the resolution. (Note: When a similar resolution was presented at the Human Rights Council in March 2008, the "no" votes and abstentions outnumbered the "yes" votes. The vote was 21-10-14. End note.) [Posts may also refer to this year's USG response to the Office of the High Commissioner for Human Rights concerning Combating Defamation of Religions on Mission Geneva's unclassified website at: <http://geneva.usmission.gov/2009/08/12/usgovernmentresponse>]

-- Elections resolution: The U.S. will introduce its traditional biennial resolution on free elections, which will also offer support for the UN Electoral Assistance Division. The resolution has always enjoyed widespread support, and we expect it will again this year.

--Rights of the Child: The EU and the Group of Latin

American and Caribbean countries (GRULAC) jointly cosponsor the annual resolution on the rights of the child. As one of only two countries (the other being Somalia) that has not ratified the Convention on the Rights of the Child (CRC), the U.S. has been virtually isolated in its opposition to this resolution in the past. This year we would like to be able to join consensus and seek to work with the EU and GRULAC countries early on acceptable language. One of our main concerns in the past has been language designating the CRC as "the standard" for protection of children's rights. In the past, we have not found the EU and others amenable to our changes but we hope that this year presents a new opportunity to find common ground. The U.S. signed the Convention on the Rights of the Child in 1995, but it has not been ratified. The State Department plans to engage in a new interagency process to carefully review the treaty before deciding whether to pursue ratification.

-- Elimination of Discrimination Against Women: At the most recent session of the Human Rights Council (HRC), the U.S. co-sponsored a resolution introduced by Colombia and Mexico on the elimination of discrimination against women. The resolution requests the Office of the High Commissioner for Human Rights (OHCHR) to prepare a report on women's equality before the law and to include recommendations on how the HRC can help States eliminate discriminatory laws.

Earlier drafts of the resolution called for the appointment of an Independent Expert who would: work with governments to help them eliminate discriminatory laws, identify good practices from different regions and legal traditions, and foster cooperation among states with the OHCHR. The U.S. supported this stronger language. However, Egypt and others strongly objected; and the drafters amended the text so that the resolution would be adopted by consensus.

It is unlikely that this issue will come up at this year's General Assembly. The U.S. will continue to work with Colombia, Mexico, and others to move this issue forward.

¶7. KEY OBJECTIVES AND TALKING POINTS FOR ALL POSTS:

-- Express U.S. commitment to multilateral efforts to protect and promote human rights, and urge close cooperation during the upcoming UNGA Third Committee session.

-- Emphasize that we are consulting with host government in advance of the session not only because we hope to work closely with them on key human rights initiatives, but also to enable us to take their views into account as we shape our own positions.

-- Emphasize our principled and consistent position on no-action motions. Strongly urge host government to oppose them and to permit full and open debate of the serious human rights issues that are raised in the Third Committee.

-- Ask host government to support the planned country-specific resolutions on Iran, Burma, and DPRK.

--Solicit host government support on the biennial U.S. elections resolution. The provision of electoral assistance is an integral part of the UN's commitment to supporting democratic electoral processes in its Member States. Support for this resolution constitutes recognition of the vital role the UN plays in electoral assistance.

¶8. FOR GROUP OF LATIN AMERICAN AND CARIBBEAN COUNTRIES (GRULAC) AND EU POSTS: Note our interest in finding common ground on important issues such as the Convention on the Rights of the Child. Emphasize our desire to work closely

with the EU and GRULAC on this resolution and encourage early outreach to our Mission in New York by their respective mission.

¶9. KEY OBJECTIVES AND TALKING POINTS ON DEFAMATION

Given the complex and nuanced nature of the debate on "defamation", posts may draw on the talking points below in discussions on this topic.

¶10. FOR OIC COUNTRIES:

The Administration is committed to implementing the vision articulated in the President's Cairo speech, including in the UN, where we want to reduce the unhelpful perception in the media of an insurmountable split between Islamic and Western states on key values.

The United States is encouraged by the recent U.S./Egypt freedom of expression resolution adopted by consensus at the UN Human Rights Council, and by the excellent cooperation between the United States and the Organization of the Islamic Conference (OIC) member countries on an issue on which there has been so much division in years past.

We hope to build on this collective achievement and to continue to foster greater understanding between nations. We look forward to strengthening our cooperation in the United Nations, particularly in the area of combating discrimination.

We are committed to working with the OIC to combat negative religious stereotyping, in particular, but as you are aware we have concerns with the "defamation of religions" concept and with the subsequent calls for prohibition on offensive speech.

We do believe, however, that we share the objectives of ensuring religious freedom for all, and combating intolerance and discrimination. We also believe that governments have a responsibility to promote respect and fight intolerance.

We ask that you and the OIC consider postponing the Defamation of Religions resolution in this year's UNGA Third Committee, in order to give us time to work together to develop another approach to address these underlying concerns that could enjoy the consensus of the UN Human Rights Council and the UN General Assembly, and as a result could have a greater impact globally.

¶11. FOR NON-OIC COUNTRIES:

The United States has serious concerns with the concept of "defamation of religions" and we urge host country to vote against or abstain on any such resolution.

The United States believes that the concept of "defamation of religions" is not supported by international law and that efforts to combat "defamation of religions" typically result in restrictions on the freedoms of thought, conscience, religion, and expression.

Under existing international human rights law, individuals - not religions, ideologies, or beliefs - are the holders of rights and are protected by the law. In contrast, the concept of "defamation of religions" conveys the idea that a religion itself can be a subject of protection under human rights law and must be protected from individuals who might be at odds with a particular religion or religious interpretation.

In addition, the term "defamation" carries a particular legal meaning that does not apply to systems of belief. A defamatory statement is one that is false and

not simply offensive or different from another's point of view. The concept of "defamation" does not properly apply to things that cannot be verified as either true or false, such as statements of faith, belief, or opinion. An individual's belief that his or her creed alone is the truth will inevitably conflict with another's sincerely held view. Even among adherents of the same religion, there are divergent views that some might find offensive or "defamatory."

As a practical matter, efforts to combat "defamation of religions" typically result in restrictions on freedom of thought, conscience, religion, and expression. Some governments in Muslim-majority countries have attempted to justify domestic statutes against religious "defamation" - such as anti-proselytizing, blasphemy, and apostasy statutes - on the grounds that statements regarded as defamatory could, they claim, incite severe inter-communal violence. However, instead of fostering tolerance, such laws can lead to greater intolerance, conflict, and instability, and can result in the abuse of religious minorities and vulnerable or dissident members of the majority community.

In addition, even if a "defamation" standard were to be legally enforceable and applied in a non-discriminatory manner (which is not the case in many of the countries that have anti-defamation laws), it could lead to numerous legal claims and counterclaims between majority and minority religious communities.

The United States understands the primary concern of the resolution to be the negative stereotyping of religious groups, particularly of minority groups, and the contribution that these stereotypes to a lack of respect and discrimination.

The United States shares concerns about the impact of negative stereotypes, and believes that such stereotyping, particularly when promoted by community, religious, or government leaders, contributes to a lack of respect, discrimination, and in some cases, to violence.

In his June 4, 2009 speech in Cairo, President Obama stressed that the United States must fight against the negative stereotyping of religion when he stated, "I consider it part of my responsibility as President of the United States to fight against negative stereotypes of Islam wherever they occur."

The United States believes that States have the tools to fight these problems at their disposal, and that the best way for governments to address these issues is to develop robust legal regimes to address acts of discrimination and bias-inspired crime; to condemn hateful ideology and proactively reach out to all religious communities, especially minority groups; and to vigorously defend the rights of individuals to practice their religion freely and exercise their freedom of expression.

The United States is encouraged by the recent U.S./Egypt freedom of expression resolution adopted by consensus at the UN Human Rights Council, and by the excellent cooperation between the United States and the Organization of Islamic Conference (OIC) member countries on an issue on which there had been so much tension in years past.

We hope to build on this collective achievement and to continue to foster greater understanding between nations, particularly in the area of combating intolerance, negative stereotyping, and discrimination.

NOTE ON SEPTEL GUIDANCE

¶12. As the UNGA Third Committee session proceeds, the Department will instruct select posts to deliver

targeted septel guidance at the highest possible level to discuss host countries' voting records and encourage closer cooperation on key USG priority resolutions. These septels will be in addition to the instructions in this message.

POINTS OF CONTACT AND REPORTING DEADLINE

¶13. Posts are requested to report outcome of demarche via front channel cable by no later than October 26 2009. Posts should use SIPDIS caption in responses. For questions, please contact Colleen Neville in IO/HR and Chris Sibilla in DRL/MLGA.

CLINTON